



## **CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE**

**DATE/TIME: Monday, August 21, 2006 - 7:00 p.m.**

**LOCATION: Police Department Auditorium  
870 Santa Barbara Drive**

Roll Call

1. Minutes of July 17, 2006 (*draft minutes attached*)
2. Discussion of subcommittee report on Draft Environmental Impact Report for Newport Bay Marina project, 2300 Newport Blvd., Newport Beach, CA (attachment)
3. Economic Development Committee (EDC) Representative's Report
4. Report from Membership Subcommittee
5. Report from Staff on Current Projects
6. Public Comments
7. Future Agenda Items
8. Adjournment

***NEXT MEETING DATE: September 18, 2006***

\*Attachments can be found on the City's website <http://www.city.newport-beach.ca.us>. Once there, click on **City Council**, then scroll to and click on **Agendas and Minutes** then scroll to and click on **Environmental Quality Affairs**. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2<sup>nd</sup> Floor.



## CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

### DRAFT MINUTES 07-17-06

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach Police Department Auditorium, 870 Santa Barbara Drive, on **Monday, July 17, 2006.**

**Members Present:**

	Keith Curry, Council Member		Sandra Haskell - <i>excused</i>
	Richard Nichols, Council Member	X	Barry Allen
X	Cris Trapp, Chairperson		Kristine Adams - <i>excused</i>
	Dolores Otting, Vice Chair - <i>excused</i>		Marianne Zippi
X	Lloyd Ikerd		
	Matt Wiley - <i>excused</i>	X	Jack Wu
	Christopher Welsh	X	Jennifer Winn
X	Mike Browning	X	Ray Halowski
X	Brent Cooper	X	Barbara Thibault
X	Laura Dietz		Merritt Van Sant
X	Kenneth Drellishak		
	Laura Curran - <i>excused</i>		

**Staff Representatives:**

**Guests Present:**

X	Assistant City Manager Sharon Wood	

Chairperson Cris Trapp called the meeting to order at approximately 7:15 p.m.

1. Minutes of June 5, 2006

Chairperson Trapp noted that the minutes should reflect that a report on the Economic Development Committee meeting was given by Sharon Wood, describing a presentation on the OC Cruiser.

**Motion:** Lloyd Ikerd moved to approve the minutes with corrections.

Ray Halowski seconded the motion.

**Motion passed unanimously**

2. Discussion of draft letter to Mayor and City Council regarding the General Plan 2006 Update

—

A motion to approve the letter with revisions passed unanimously.

3. Public Comments —

Chairperson Trapp reported that, at the June meeting of the Economic Development Committee, presentations were made by the Balboa Theater Foundation and the Newport Beach Film Festival.

Laura Dietz reported that the General Plan Advisory Committee met on July 10, and received a report on revised General Plan recommendations and trip reductions. GPAC members also received certificates of appreciation for their service.

Chairperson Trapp reported that she was appointed to the Parks, Beaches and Recreation Commission, and would resign from EQAC after this meeting. She also reported that the Mayor intends to appoint Ken Drellishak as EQAC Chairperson. The Committee thanked Ms. Trapp for her service to EQAC.

4. Future Agenda Items —

August 21 — Comments on DEIR for Newport Harbor Marina project

5. Adjournment —

The meeting was adjourned at 7:50 p.m.

**To:** Patricia Temple, Planning Director, City of Newport Beach

**From:** Environmental Quality Affairs Citizens Advisory Committee  
City of Newport Beach

**Subject:** Draft Environmental Impact Report (DEIR) for Newport Bay Marina Project

**Date:** June 22, 2006

Thank you for the opportunity to comment on the DEIR for the subject project. We offer the following comments in hopes of improving the final Environmental Impact Report on this important project for the city of Newport Beach and the Balboa Peninsula

## **1.0 Introduction**

Page 1-1 (please note that the page numbering is wrong) discusses reconfiguration of "the existing 19-boat slip marina". However, elsewhere in the DEIR (pg. 3-5 for example) the discussion refers to "reconfiguration of the existing 21-boat slip marina" and existing slipways. To avoid confusion, the DEIR should use consistent numbers and terminology regarding the number of boats that can be accommodated in the completed project configuration. Will the completed project be able to accommodate more, less or the same number of boats as the current configuration?

Section 1.7 (bottom of page 1-3) states that "Responsible agencies in respect to this project may include..." It seems that the authors should be clear on which agencies are responsible versus those that have a less rigorous consultation role. Are responsible agencies those that must give specific approval for the project to proceed? Does SCAQMD have a responsible or consulting role in this project?

## **3.0 Project Description**

Although the project description is generally informative, the colored Exhibits would be much more useful if they had better annotation. For example, "Exhibit 3-6 has red arrows which denote public walkway access and a clear note to that effect would be useful. Exhibits 3-10 to 18 show plans for various project levels, but do not clearly identify elevators and stairways and their terminations/destination. RCP, CCP, CP and V should be defined on the Exhibits. Exhibit 3-7 has note 7 referring coordination with the city of Corona. Is this correct? What does Corona have to do with these easements?

Section 3.2, page 3-24, states that "project (structures) will be constructed in phases and is

estimated to have an 18-24 month construction schedule per phase". This could be interpreted to mean that construction would least from 36 months to 48 months (2 phases) or longer. This statement seems to be in conflict with the schedule discussed in Volume II, Appendix A, pp 11-12, where demolition, grading, excavation and construction are said to be completed in 3 years (January 2008 - December 2010). The most correct estimate of the project schedule would be helpful in the Project Description Section.

-2-

Furthermore, neither reference to the schedule includes specific reference to the reconfiguration of the marina. Is this considered to be part of the construction phase?

Section 3.5, page 3-26 mentions 3 project alternatives (i.e., No Project, Reduced Development, Commercial Development), but this is inconsistent with Section 8.0, pp 8-1 to 4, where 4 project alternatives including residential only, are evaluated. This fourth alternative should be recognized in Section 3.5

## **4.1 Aesthetics**

Sections 4.1.2, pages 4-3, identifies an aesthetic significant impact if "the project would have a substantial adverse effect on a scenic vista". The report goes on to explain the architectural features of over 260 ft. of building on Newport Blvd., which is at least 35 ft. high (and nearly twice that frontage on the bay side). Even with careful attention to keeping the architecture compatible with other structures in the McFadden Wharf area, it is impossible to avoid an "adverse effect on scenic vistas" from Newport Blvd., the bays and residences across the bay. Because of this, the conclusion on pg. 4-10 that "project impacts relative to scenic vistas have been determined to less than significant" is exceedingly optimistic. Refer to Exhibit 4.1-1 (the Newport Blvd. View) and Exhibit 4.1-4 (the bay view). They leave no doubt that the scenic vistas are adversely affected. Since the project is expected to meet all of the zoning and planning department requirements, the only mitigation available is landscaping and foliage. Since the referenced exhibits show sparse plantings, which are barely visible against the buildings and do little to soften the building features, it is important to put heavy emphasis on MM 4.1.4-1 (pg. 4-12). It would be helpful in the DEIR to show better examples of how this mitigation measure would be effective in providing "visual softening of the proposed three-story buildings" from both Newport Blvd. and bay viewing locations.

## **4.2 Air Quality**

Volume II, Appendix A deals with various air pollution issues relating to proposed project. One contaminant, lead (Pb), is described as a potential problem, but never analyzed or discussed again. Since this project involves demolition of old structures, which probably contain lead

products, and excavation of soils that may contain lead contaminants from old shipyard activities, what provisions are planned to protect the work crews and other persons in the vicinity from danger of exposure to lead products in fugitive dust and/or demolition debris?

Appendix A contains several tables of air-pollutant emissions for various phases of the proposed project and draws conclusions from these tables. SCAQMD recommends that Urban Emissions (URBEMIS) Model 2002 be used for the computations needed here, but it is not mentioned as the source for the data presented. Was URBEMIS 2002 used to compute the project data?

-3-

Air quality mitigation measures for this project are listed on page 4-25 of the DEIR (MM 4.2.4-1, 2 and 3) and seem reasonable in the context of the analyses of Appendix A.

However, Executive Summary Table 1 (pg. 2-4) does not make correct reference to these mitigation measures. This should be corrected to eliminate potential confusion regarding the intentions of the proponent.

## **Section 4.2.3 Impacts**

### **Short -Term Air Quality Impacts**

Page 4-19, last paragraph states the following:

"The project information indicates that approximately 44,300 sq. ft. of the existing building will be demolished. Based on these square footages, it is estimated that a total of 166,125 cubic feet of structures or 922 cubic yards of demolition debris will be hauled off site. If the project removed material at a rate of 100 trucks per day, the demolition would be removed in one day."

They also indicate there will be 10 worker vehicles traveling to and from the site each day-

Page 4-20, next paragraph discusses dirt removal and states the following:

"Approximately 30,000 cubic yards of dirt will be excavated from the site for the subterranean parking structure. Where the material will be hauled will not be known until after the grading permit is issued and just before the excavation begins. .... If the project removed material at a rate of 100 trucks per day, the excavated material would be removed in 22 days".

The DEIR neglects to inform the reader that to get 100 trucks off and on to the site in one day is virtually impossible. The DEIR fails to tell the reader of a plan to accomplish this. There is no mitigation measure which describes what impact 100 trucks in a day will have on the Peninsula since there is only one way in and one way out. It further does not tell the reader how they will

be staged, how they will get on and off the property, and where the employees will park.

### **Section 4.3 Biological Resources**

Page 4-31 Mudflats - During the December 2004 field observations, the tide was low and muddy. Should consideration be given during times of high tides with the possibility of other creatures present? Could they be present during high tide?

Pages 4-36 to 4-37 - If they are concerned with the dredging impact and the turbidity impact, are they taking into consideration:

1. Which tide has the most fish present

-4-

2. Flow of the water in the harbor with the moving tides? For example; if they are working during high tide, what would the impact be when the tide pulls the water out of the harbor during low tide.

Page 4-37 Contaminants - 2<sup>nd</sup> sentence - The past dredge survey dates should be included in that section.

Page 4-40 Indentation needs to be more consistent.

Page 4-40 Last Paragraph - Perhaps instead of using the word "depauperate," a more layman term might be more appropriate.

### **Section 4.4 Cultural Resources**

Page 4-44, last paragraph. Add the words "architectural resources" to the end of the last sentence.

Page 4-63, Last paragraph, last sentence. Add the words "one of" after the phrase "if the resource meets."

Page 4-64, Section 4.4.3 Impacts, Section (b) Paleontology Resources. The entire section needs to be revised because it indicates the project may have an impact on Paleontology Resources. This conflicts with Page 4-43, which states the project site possesses no valuable paleontological resources because it is underlain with artificial fill (see Page 4-43, Section 4.4.1 Environmental Setting, Section b)

Page 4-65, the bottom of the page includes three separately headed paragraphs that discuss artificial soil. Consider consolidating all three paragraphs into a single paragraph.

Page 4-66, Section C, Historical Resources, 1<sup>st</sup> Sentence. Change "National Register" to "California Register" in accordance with the significance criteria discussed on Page 4-62.

Page 4-68, 1<sup>st</sup> complete bullet point, 1<sup>st</sup> sentence. Add the word "former" and "the" to the end of the first sentence so it reads "... historical importance of the *former* structures on *the* site."

Page 4-68, 1<sup>st</sup> complete bullet point, last sentence. Clarify that the public right-of-way where the plaque will be placed will be oriented to Newport Boulevard and not the other public right-of-way on Arcade Street where the plaque would be more difficult for the public to observe.

Page 4-68, 2nd complete bullet point. If undocumented archaeological resources are discovered, the current mitigation measure halts construction activity once the

-5-

archaeologist is brought to the site and assesses the nature of the find. By this time, any valuable resources would likely be destroyed. Revise the mitigation measure so that construction activity halts as soon as cultural resources are found. For example:

If previously undocumented cultural resources are found during construction activities within the project area, construction activity shall halt in the vicinity of the find until a qualified professional archaeologist assesses the nature and significance of the find and recommends appropriate mitigation measures.

## **Section 4.5 Geology and Soils**

Page 4-69, 3<sup>rd</sup> paragraph, 3<sup>rd</sup> sentence. Remove the word "as" between the words "consist of" and "asphalt covered".

Page 4-72, 3<sup>rd</sup> paragraph, 3<sup>rd</sup> sentence. The sentence appears to be missing a word, such as "sand" at the end of the sentence.

Page 4-72, 3<sup>rd</sup> paragraph, 5th sentence. To be consistent with the Petra study in Appendix D, add the word "clay" to the sentence, as in "one inch thick *clay* layer..".

Page 4-72, 4th paragraph, 3rd sentence. Define the word "en-echelon".

Exhibit 4.5-3 Correct the spelling of "Southern" California.



Page 4-74, 1<sup>st</sup> and 3<sup>rd</sup> paragraphs. There appears to be a conflict between these two paragraphs. The 1<sup>st</sup> paragraph states that the site is not located within the Newport-Inglewood fault zone, and the 3<sup>rd</sup> paragraph states that the site is located within the Newport-Inglewood fault zone. This apparent conflict is also stated in the Petra report, Appendix D, page 10.

Page 4-74, 4<sup>th</sup> paragraph, last sentence. Replace the word "top" with "to".

Page 4-76, 1<sup>st</sup> paragraph. The last sentence states that secondary effects of seismic activity, such as ground failure, liquefaction is unlikely at the site. This conclusion conflicts with the findings in the Petra report, Appendix D, Page 11.

Page 4-76, 4<sup>th</sup> paragraph. The report states that the site elevation of 5-6 feet above sea level makes the site moderately susceptible to a tsunami. This elevation seems too low for a moderate susceptibility. For context purposes, identify the sea level elevations that would categorize a site as high and low tsunami susceptibility.

-6-

## **Section 4.6 – Hazards and Hazardous Materials**

4.6.1 refers to one area with PCB's above the EPA preliminary remediation goal. Five bullet points later the study notes the PCB's are below the threshold requiring disposal as hazardous waste. This conclusion may be correct or may be an error; noting that there is no need to dispose of the PCB soil as a hazard in the same bullet point would clear up any confusion.

4.6.3 has a discussion that the upper three feet of shoal in the mudline is contaminated with copper and lead, and that a conceptual plan for removal of these soils has been submitted to SARWQCB. No affirmation of removal has been made.

Because that plan is only conceptual, a affirmative statement that the soils will not be abandoned in place should be included, otherwise, should the plan change to that, the DEIR will not have addressed the issue.

## **4.7 Hydrology & Water Quality**

Essentially, no comment on what is addressed in the section itself - all identified impacts are

mitigated or less than existing.

Several areas were not addressed in 4.7:

Dewatering Operations/Water Quality. There is significant contamination present on the site from its former use as a shipyard. A large dewatering operation is contemplated, per the verbal presentation by the project developer. No mention is made of the potential for the dewatering operation to spread contaminants from the soil, nor how this might be controlled.

Local large scale dewatering operations have had contamination issues and fines (see Balboa Bay Club Construction).

There is little comment about the control of underwater contamination during removal other than the plan is being submitted to SARWQCB and an unsupported statement that the dredging is expected to have little or no impact. This may or may not be satisfactory, but the plan is not in evidence yet.

## **Section 4.8 Land Use and Planning**

Page 4-103 Environmental Setting - 2<sup>nd</sup> Paragraph, 2<sup>nd</sup> Sentence - please add an “a” before 102,800 sq foot lot.

**-7-**

## **Section 4.9 Noise**

Page 4-119 Existing Site Monitoring Procedure - Thursday February 23, 2006 is when the noise measurements were made. Perhaps they should have done the noise measurements during the height of the Peninsula activity, perhaps during the summer months in addition to the slowest activity times. This would at least provide possible residents a range of sound possibilities.

Exhibit 4.9-2 - The location of #2 should have been closer to the Crab Cooker to pick up the highest activity location. Or perhaps in line with location #1, which is at least in the center of the project.

Exhibit 4.9-3 - All of the A-Weighted Sound Level dBA measurements were done in 1979. With all the technological advances, perhaps some sound level dBA measurements should at least be done in the most recent decade.

## **Section 4.10 Public Services**

### **4.10.3 Impacts- Fire:**

The DEIR states that the proposed project may potential increase the number of calls for service to the location; ..... current emergency equipment and facilities at the project site must be evaluated to ensure that the current facilities are adequate and serviceable. Items that will be evaluated as part of the construction project plans include, but are not limited to, the following: firefighter communication equipment, fire pump and on-site water supply. ***Please note the DEIR states that these will be evaluated, not implemented.***

The DEIR goes on to state "all fire protection project features must be designed as an integral part of the construction process with all improvements and /or modernization of equipment systems or devices identified and agreed upon by the City of Newport Beach Fire and Marine departments prior to any construction approval."

Again, the document does not give the reader any information as to what will be implemented to provide fire safety besides sprinklers, which are required by law.

Police: **The DEIR says the following:**

**"There are no plans for additional facilities...or staff. The NBPD indicated that the construction of the project may have an impact on the area, especially if the construction is done in the summer months".**

The DEIR states no mitigation measures for how to handle the **"very busy traffic and parking issues because of the beachgoers and tourist business that occurs between May and September.**

-8-

I could not find in the DEIR the amount of material that will be excavated and therefore have no idea the amount of trucks that will be needed, where the material will go to and how they will mitigate the traffic impacts and impacts to access by Fire & Police.

#### **4.10.5 Level of Significance After Mitigation**

**"With implementation of recommended mitigation measures, all potential impacts are anticipated to be a level of less than significant." What mitigation measures?**

#### **Section 4.11 Transportation**

The report is unclear as to the length of time the project will take to complete. In one location (traffic report) it indicates it will be completed in 2006 and in other locations it indicates construction times of 18 to 24 months. Considering the length of time to build the project, if in fact it is the 24-month figure, does the developer have any suggestions for Saturday and Sunday and agreeing to no summer work on Saturdays and Sunday because of the traffic problems that would be created in this area.

Are there any proposals for traffic corrections during the construction phase that specifically relate to the summer months in this area on the peninsula? Because of the location of this site and the roadways adjacent to it, traffic counts should be made in the summer on at least Saturdays so the decision-makers would have some knowledge of the problems that might be created by this project if Saturday work was allowed.

I believe that the traffic counts that are being utilized for this project are "shoulder counts" which does not do traffic analysis during the summer. However, because of the length of this project taking at least 18 to 24 months according to some portions of the report this could involve construction during two summers and I think we must be realistic about a construction project this large if they're going to be blocking lanes and large trucks are going to be coming and trying to unload. Aren't they going to be blocking lanes and other activities that would create tremendous traffic problems for this specific site? This should be further detailed in a subsequent EIR or traffic analysis?

Did not see any plans in the DEIR on how to contain traffic and vehicles on the construction site during the lengthy construction period. Considering the roadways in the area and the congestion that can be in the area, especially during summer months, the project proponents should be required to set forth in the EIR how they intend to handle construction vehicles and workers vehicles, i.e. are they all going to be parked on-site or are they going to be parked in available public parking which is near the site?

The EIR doesn't deal with parking permitted during construction. We're talking here about the construction workers and wouldn't it be appropriate for the DEIR to indicate, in view of the very lengthy construction phase, whether those workers will be able to park on-site or will they have to park in available public parking off the site?

-9-

Because the DEIR doesn't discuss parking issues during construction, the City might want to consider conditions on the project with regard to workers off-site parking during the construction phase because of the difficulties with parking in this area especially during the summer months.

What does the owner propose to advise prospective buyers of the residential units with regards to parking available on site for their vehicles? The report discusses the residences, the size, total number of parking spaces, and then designates a certain amount of parking spaces for residential but doesn't indicate how they arrived at that particular number of parking spots for residential.

The DEIR does not discuss the number of parking spaces that should be made available for this size of residential and what the project proponent suggests for vehicles in excess of that number as to where they should locate or park if there are more vehicles for people who live on the site than there are parking spaces designated for those residents.

What on-site parking is exactly proposed? What is the exact size of the parking spaces "between the lines" that are proposed? This is an issue that should be addressed in the DEIR because increasingly people have large vehicles and unless parking spaces are expanded in size then these large vehicles will overlap into adjacent spaces and therefore make the parking spaces available not truly the amount that is indicated in the DEIR. This is such a significant issue in today's

parking lots that this is something that this particular DEIR should specifically address and the decision-makers should require that it be addressed specifically.

The DEIR indicates the only increase in traffic from this new development will be 600 car trips per day. The EIR should explain certainly in more detail than has been explained in this DEIR and all the studies done in this DEIR how you can go from a project which currently has 44,000 square feet of development and about 577 car trips a day associated with that development and then you add 94,000 square feet and you only increase traffic by 600 car trips a day. That is so difficult to understand it should be detailed much more than it is in this particular report.

It is unclear in the DEIR whether the additional square footage proposed by this project includes the underground parking and the ground level parking or does it only include construction of the buildings that will house businesses or residents. This should be detailed so that the decision-makers will in fact know what the real size of the project will be from a square footage standpoint considering the substantially increased size of this development over what exists and that the total size of the lot area is 102,800 square feet and the proposal is to build a 138,800 square feet.

The DEIR does not indicate the nature of the portion of the project that is going to be occupied by commercial or retail. The type of retail and commercial should be indicated

-10-

because it makes it different for parking needs and car trips generated depending on the type of retail that is to be proposed.

On page 3-26 there is a reduced development alternative. This should be considered by the decision-makers because the project alternative would obviously involve development of a site with substantially reduced residential units and commercial that would then take a much shorter time to build than the projected time of 24 months in some portions of this report. This reduced alternative has viability especially when one considers the location of this particular project located on a place where two major roads on the peninsula come together and unfortunately create "choke points" that would have effects upon traffic up and down the peninsula. The decision-makers must decide if they can force the peninsula to put up with two or more years of construction at this site with all the traffic problems we know that such developments can cause. This alternative as well as other alternatives should be carefully evaluated in view of the recent court decision in PAC vs. San Jose (2006) DJ DAR 10233.

Transportation, page 4-133 indicates the existing site generates 577 ADT and that the new project will only add 682 ADT and then when you vary that between the peak hours you have a minus 2 vehicles in the peak hour in the morning and plus 28 in the P.M. This should be explained in more detail than is in this DEIR because we know that we had a marina and a boat yard and various business activities on this property that generated 577 ADT with only 60 to 70 peak hours and now we're going to have both residential and retail with a project that shall increase in size by about 94,000 square feet and it's only going to increase by 26 car trips in both A.M. and P.M. the peak hour traffic. I do think it important for the decision-makers that they make the traffic engineer explain it more detail how he came up with these calculations going from a project of 44,000 square feet of commercial to a project of 138,000 square feet and adds only a total of 26 car trips per day during the peak hours.

The traffic study at page 4-135 indicates that it's assumed in the traffic study that all residential traffic will leave the area. It should be explained what this assumption is based upon. Aren't the people who live there going to go to dinner, the grocery store, the hardware store and the drug store, which are all located in the local area? (Also see Appendix H - page 2.)

The traffic report indicates that the staff suggested they study six intersections for traffic impacts. None of these intersections were any of the numbered streets (22nd, 23rd, 28th, etc.). This project is located only a few feet from the intersection of Newport Boulevard and Balboa Boulevard at McFadden Square and no road in that area was studied. The nearest intersection was Newport Boulevard at Via Lido and that was the only intersection that was studied that didn't pass the one percent test. The other areas that were studied were the intersection of Tustin Avenue at PCH and Riverside Avenue at

-11-

PCH and then Superior Avenue at PCH. This is an insufficient traffic study for the area, especially one that should be conducted during the summertime with construction going on because otherwise the decision-makers are being given a false impression of the character of traffic and the problems that will be created for traffic by the building of this site for at least a 24-month period of time. The EIR must study the intersections that would be affected by the project and it does not appear that that was done. The decision-makers should require that this additional study be done for the benefit of the people who live and use the peninsula especially during the summer hours.

On page 4-141 the on-site parking recommended for residential is 58 spaces. This is only a couple of more spaces than two per unit and these units are going to be 3,000 to 4,000 square feet according to the calculations. The EIR should contain studies of these size units and the number of cars that are generally utilized by units of this size. It is submitted that units of this size would certainly have at least two cars per unit but then we also have live-in maids and nannies and high school and college students who have cars. With a total of 226 parking spaces provided why does this DEIR indicate they only proposing 58 of those for residential. More details on this should be supplied in the EIR so the decision-makers can determine whether this is sufficient parking for the residential that's being proposed.

There is concern by this committee following reading this report that there may be some restrictions on residents to parking in some of the 226 parking spaces that are being provided. Maybe the decision-makers should put a condition on the project, if granted as requested, to provide residential parking stickers to all vehicles owned by residents and that anyone with a residential sticker be allowed to park anywhere on the property. What the members of this committee are concerned about is that after the residences are sold, the developer of the project may still own the retail and commercial and will want to keep those people happy by designating certain parking areas reserved for those retail and commercial uses and restrict the use by residents. It is this committee's recommendation that the project should be conditioned so that the developer is not allowed to do this, i.e. designate certain spaces as being reserved for his commercial and retail business. The concern by the committee is that if this is done then the

residents will be forced onto the available public parking in the area to park their vehicles. This site is of sufficient size to handle all of the residents parking if it is made available to them and that should be the first concern of the decision-makers in this case.

The DEIR does not indicate anything with regard to the anticipated parking that is required for the marina users. Let us assume that one of the marina users has a party and a trip to Catalina with a weekend planned and eight people are going to be going and they all arrive in separate cars. Has this been taken into account? Considering the size of the residential units it is submitted that the DEIR should detail how this project can provide two or three parking spaces per residential unit and still supply adequate parking for all the other retail. The types of retail is not indicated but if it's restaurants or night clubs

-12-

sometimes those people would be parking there in the evening in a lot of spaces that might be utilized by residents.

Because of parking problems on the site that might be generated by nighttime use of the retail, maybe conditioning the project not to have any sit down food service or no on site alcohol sale would resolve the problem of nighttime parking.

The only access to this site when approaching from the north is 22nd Street. This is the corner where the Crab Cooker exists. Basically all traffic arriving for the commercial use will certainly be from the north and I would assume all persons returning from work activity in the evening would also be arriving from the north. Does anyone foresee a problem? Either the EIR preparers, traffic engineers or the decision-makers should see what 22nd Street looks like in the evening when people are trying to get into the Crab Cooker. The next street is even worse because that's where the Spaghetti Factory is located. Has anybody found an open parking space at the Spaghetti Factory parking lot at any time?

The traffic report is dated in November and December 2005. I submit the report had to be prepared a substantial length of time before that and therefore is dated incorrectly. If you look at Table 2 on page 9 of the traffic report you will see a number of projects that they indicate are incomplete but that are on line to be completed. Two of the items which "jump off the page" are the Cannery Lofts and the Newport Technology Center. I submit that both of those have been completed for at least two years. This writer submits this report wasn't prepared in November/December of 2005. Even though not a general comment in the DEIR I submit the person who is paying for this EIR should demand to see the invoice for the work that was done and see when it really was done.

On the issue of access to the site the question is, is there a traffic signal at 22nd Street? If there is not a traffic signal does anyone believe that traffic can turn left and make U-turns to approach the project with all the traffic that will be coming toward it on Newport Boulevard? It should be explained that if you do make a U-turn at 22nd Street how much distance do you have to make a lane change and stop to make your turn into the project. Does anyone see that being a problem on a roadway with 40,000 ADT? This should be explained in more detail with much more analysis by the traffic engineers so that the decision-makers can determine whether this is an appropriate and adequate traffic report.

Details with regard to the existing parking in the street and the number of spaces and also the parking in something called the arcade should be given in more detail. It is unclear from the DEIR what parking does exist and what is going to happen to that parking during the construction phase.

On page 16 the project wants to utilize the on street parking for part of its required parking. This should be carefully analyzed by the decision-makers as to whether that's providing adequate parking on the proposed project. The decision-makers might want to

-13-

decrease the size of the project so that adequate parking can be provided on site and not have this project utilizing the public streets.

On page 16 of Appendix H, the problem with large vehicles and parking areas is discussed with not enough detail given as to how these vehicles are going to be able to function on this particular site. It should be explained by the traffic engineers in detail how these businesses and residents are going to get deliveries from large trucks. How are they going to do it? The project probably should be conditioned with a prohibition of any delivery parking on Newport Boulevard because if it's not prohibited than this arterial road would have lanes blocked and access blocked when large delivery vehicles are trying to deliver to the site after its built and occupied. Let's solve the problem now before the project is built rather than having the problem come up after it's built and we have these delivery vehicles causing problems.

On page 16 it indicates the radius of the ramps connecting the portions to the underground parking lot as 80 feet, which the report says "is adequate". The question not answered in the report is it's adequate for what size vehicle? Further detail on this should be given on the report especially in view of comments about difficulties with delivery vehicles on site and also some problems with available parking spaces.

What are the grades on the ramps? What size vehicles will be able to use the underground parking? It appears the decision-makers would certainly want it to be able to handle at least large SUV's and pickup trucks and vans for a project of this type consisting of retail and residential and yet this is not set forth in the report as to what restrictions will be on the size of vehicles that would be using the available underground parking.

Someone should analyze the parking on this site that is being proposed with the actual plans with the existing walls and pillars to see if this project really does have the required parking. If certain parking spaces are inaccessible if other adjacent spaces are occupied, then it's critical to know this at this time and whether the parking spaces that are claimed are in fact going to be usable. I can't think of any way to determine this other than having staff or the traffic engineers make further studies by laying out such a parking lot and indicating walls and pillars to see if the parking spaces truly are usable and by what size vehicles they would be usable. Then the decision-makers would indeed know how many real parking spaces there are available.

I think traffic studies on the weekends in the summer should be done. Some of the people who are familiar with the amounts of traffic on the peninsula from personal experience may be surprised by the traffic report which basically indicates that intersections on the peninsula operate



at LOS A even in peak use hours. I have a feeling this must be "peak use hours" which are different from the hours that this writer has personally visited the peninsula on many occasions and certainly doesn't apply during weekends, winter or summer, and especially in the summer you're not going to have

-14-

intersections operating at that efficiency. That is why I think the reasonable thing to propose for this project is some traffic studies that are done both in the winter and summer because if they're going to have a construction schedule that takes two or more years then it is appropriate for some additional accommodation to be required from the developer or the project to ease the traffic concerns of residents and users of the peninsula that will be substantially interfered with because of the length of the construction of this project.

This site has a very unique roadway situation immediately adjacent to it. The traffic problems with this site can probably be seen by a layman by looking at the aerial photo which is Exhibit 3-3. The only problem with that aerial is that it doesn't show the actual intersection of Balboa and 21st Street. Include that in the aerial and you can see why drivers to this site have almost always been only people familiar with the area in order to attempt to get to the site. The diagram will also show the concern expressed by this writer about unique traffic problems for this particular site that I think are not adequately being addressed in this DEIR.

#### **4.13 (aka 4.12 ) Utilities and Service Systems**

There are no statements regarding the undergrounding of all utilities and what type of mitigation measures need to be implemented since they found water 4 feet under ground. Whether the water is tidal in nature or not, there is still water with no mention in the DEIR of what mitigation measures need to be implemented. The water is not a question of "if", but how it is to be handled.

Exhibit 3-10 shows the parking plan of the project showing only one (1) trash enclosure located by 22<sup>nd</sup> & the Arcade. What is the one trash enclosure supposed to service, both the 27 residential units and the 36,000 sq. ft. of commercial? The DEIR neglects to inform the reader how the trash service will be implemented.

Also, the Parking Plan (exhibit noted above) does not clearly designate for the reader the location of the stairs, elevators, bathrooms or showers.

Mitigation Measures (page 4-149):

MM 4.13.4-1: "Prior to the commencement of construction activities, the project applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies". This does not really say anything specific enough to be evaluated.

### **5.0 Significant Unavoidable Adverse Impacts**

The second paragraph on pg. 5-1 refers to "proposed elementary school and middle school project". Is this a result of inserting some boilerplate? How does it relate to this proposed mixed-use project?

-15-

This section asserts that, for the proposed project, "all impacts can be reduced to less than significant level, except for Cultural Resources". Considering that the proposed project will be conducted over at least 3 years and at least 3 intense summer visitor periods, and that it is being conducted in the intensely impacted McFadden Square area, it is apparent that there could be significant, unavoidable impacts in some environmental areas during the summer vacation periods. Other projects (e.g. Balboa Village Revitalization) have imposed a summer hiatus and/or construction restrictions to minimize potentially serious impacts on traffic, air quality, parking, noise, public services and aesthetics (to name a few). Has this project considered this form of mitigation?

## **6.0 Effects Not Found to be Significant**

This first paragraph on pg. 6-2 refers to the "proposed middle school and elementary school" again. Please clarify.

The DEIR further states that "mitigation measures are provided for Geology and Soils,..... Transportation/Traffic...." However, Section 4.12.4, pg. 1-141 states that no mitigation is required for traffic, circulation and parking. Please clarify this discrepancy.

## **7.0 Long Term Implications of the Proposed Project**

Section 7.2, pg. 7-2, asserts that "the project will not have a cumulative adverse impact currently or in year 2025". This is not intuitively obvious. Please provide supporting analyses showing the cumulative effects of this and all other projects planned for the Balboa Peninsula in this time frame.

## **8.0 Alternatives**

As previously noted, the 4 alternatives identified on pp. 8-2 to 4, should be listed in the Project Description.

The discussion on alternatives is superficial and generally self-serving for the proposed project. It is a given that it is desirable to improve the existing, under-performing property to a

configuration with better revenue production for the city. In this context, revenue to the city from the project should be addressed in detail. If revenue is not a driver, then Item 8.1.2., Reduced Development Alternative, would seem to be the most favorable from an environmental point of view (i.e., less time to accomplish, less traffic, less air pollution, less noise etc.). Please explain and analyze why this is not the preferred alternative.